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Encroachment Resolution Initiative FAQs

1. What is the Encroachment Resolution Initiative?

Rodney Stokes, director of the Department of Natural Resources (DNR), created the Encroachment Resolution Initiative to resolve long-standing encroachments on DNR-managed public land. This opportunity runs through 2012. Addressing historical and structural encroachments on state-managed lands will help reduce management problems associated with encroachments, or trespasses, and, in some cases, will restore land to public use and enjoyment.

2. How will the Encroachment Resolution Initiative work?

From May 1, 2012 through December 31, 2012, the DNR will notify owners of all known historical and structural encroachments on the process to obtain the land on which the encroachment exists. During this time period, property owners who believe that they are encroaching on state-owned land, but were not contacted by the DNR, may make application to the DNR to resolve their trespass. No penalties will be assessed to the owner of the historical or structural encroachment during this time period. The owner will find the process to rectify their structural encroachment to be simple.

3. How much will I have to pay?

If the encroachment has been in existence prior to March 1, 1973, and you can provide the required documentation, the DNR will deed the property to you including sufficient land to meet all set-back requirements under local zoning laws. There will be no cost to the owners of historical encroachments other than what is required to compile the required documentation. The property will be deeded to the owners of historical encroachments at no cost because they have met the legally established timeframe for adverse possession. The DNR will conduct the necessary boundary survey and will set the new corners of your property. The DNR will file the necessary paperwork with the Register of Deeds in your county to confirm a change in your property ownership.

If your structural encroachment occurred after March 1, 1973, and you have been notified by the DNR that you are encroaching on state-owned property, the DNR will sell you the property on which your structure is encroaching. The cost of the property will be determined using a fee schedule based on the State Equalized Value of your property. You will be responsible for obtaining a survey of the new boundary, in cooperation with the DNR. The DNR will file the necessary paperwork with the Register of Deeds in your county to confirm a change in your property ownership. You will be responsible for the recording fees associated with the deed recordation (approximately \$20).

If you believe that your structure is encroaching on state property and you have not been notified by the DNR, the DNR will accept the required paperwork that you submit (including a boundary survey) and sell you the property. The cost of the property will be determined using a fee schedule based on the State Equalized Value of your property. You will be required to obtain a survey of the new boundary and mark the new boundaries. The DNR will file the necessary paperwork with the Register of Deeds in your county to confirm a change in your property ownership. You will be responsible for recording fees associated with the deed recording (approximately \$20).

4. Where do I get more information?

All of the information that you will need to resolve your structural encroachment during the "grace period" established under the Encroachment Resolution Initiative can be found at <http://www.michigan.gov/dnr-encroachment>.

5. How long will it take to resolve an encroachment case?

In cases where the DNR is already aware of the encroachment, the case should be resolved within a year. If a case is being newly brought to the DNR's attention, it will take longer because of the need for documents to be compiled and researched, and a survey completed by the property owner.

6. Why is my non-structural encroachment being treated differently and I am not allowed to purchase the land?

Non-structural encroachments, such as gardens, swing sets and fences, can easily be rectified. During the "grace period" the DNR will not seek damages as allowed under law for non-structural trespasses that are removed.

7. I am trespassing on state land but have never been contacted by the DNR, does this initiative apply to me?

Yes, you are encouraged to file the necessary paperwork that can be found at <http://www.michigan.gov/dnr-encroachment>. Once the DNR has confirmed your structural encroachment, the department will work with you to sell you the land.

8. What happens if I decide not to resolve my encroachment?

The DNR will be implementing an aggressive enforcement initiative utilizing all of the powers contained within the law targeted at land owners who fail to resolve their encroachments during this "grace period."

9. "Necessary paperwork" sounds daunting. What does it really mean?

The DNR is seeking proof that you own the property and when the encroachment occurred. If you believe that the encroachment occurred prior to March 1, 1973, the DNR will accept any of the following: Building permits, appraisals, surveys, dated photographs, aerial photography, tax assessment, or property cards from the tax assessor.

10. How can the DNR give away state-acquired land?

The courts have determined what constitutes "adverse possession" and have found that for encroachments that occurred prior to 1973, the state probably does not actually own the land upon which the encroachment occurs. Therefore, the state is not "giving away" land, it is documenting appropriate ownership.

11. How does this initiative benefit the public?

Addressing encroachments is labor intensive and takes staff away from managing natural resources and providing outdoor recreational opportunities. The Encroachment Resolution Initiative reduces administrative costs and allows the DNR staff to focus on their program responsibilities.

12. Is this an example of why the DNR can't manage the lands under its control?

No, this is an example of the DNR using innovative solutions to address problems common to all large landowners. This limited-time offer allows trespassers to resolve the issue in a favorable manner at lower cost and with less paperwork.

13. What is my deadline for having my trespass resolved under this initiative?

The DNR will start accepting the paperwork to resolve structural encroachments on May 1, 2012 and will continue to accept applications until December 31, 2012. Owners of structural encroachments who do not file the required paperwork during this period should expect the DNR to utilize its enforcement tools to resolve the encroachment.

14. What penalties will I be liable for if I do not come forward to resolve my trespass before December 31, 2012?

Under the law (Act 451 of 1994, MCL 324.2157) a person who is found in trespass may be found guilty of a misdemeanor punishable for imprisonment for not more than 93 days or a fine of not more than \$500 or three times the aggregate value of the land upon which they are trespassing. If the value of the land is worth more than \$200, then the person may be found guilty of a misdemeanor punishable by imprisonment for more than one year or a fine of not more than \$2,000 or three times the value of the property upon which they are trespassing. In addition, Section 552 of the Michigan Penal Code indicates that a person who trespasses

may be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 30 days or by a fine of not more than \$250.00, or both. The Department will not only seek penalties, but also full restoration of the property including removal of all encroaching structures.

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Encroachment Resolution Initiative - What Is It?

On May 1, 2012, the DNR will launch an Encroachment Resolution Initiative (ERI), aimed at resolving many of these encroachment cases without fear of penalties. By resolving these cases, DNR staff can re-focus their efforts and resources on properly managing the public's land and the state's natural resources.

The application period for the ERI will be May 1 to Dec. 31, 2012. During that time, an individual may make an application to the DNR to resolve their encroachment case on public land. There is no fee to file an application.

How Will the ERI Work?

The ERI is intended to offer individuals with structural or historic encroachments a limited time to legally resolve their encroachments on public land at a minimum cost and without fear of penalties.

Once an individual makes an application, their case will be reviewed by DNR staff. If the encroachment is historic, meaning it can be documented to be in existence prior to March 1, 1973, the DNR staff will file a "quit claim" deed to transfer the property to the individual after a new survey and boundaries are determined.

Individuals with a structural encroachment involving a permanent structure on public land erected after March 1, 1973 will be able to purchase the land in dispute once the property research is complete and proof has been established. To speed up the resolution process during the ERI, the DNR will waive application fees and streamline its land sale process for the individuals seeking a resolution to their encroachment.

Individuals with non-structural encroachments, such as fences, gardens or other non-permanent structures, should remove the item(s) from public land.

After the application period closes on Dec. 31, any existing or new cases of encroachment that were not brought forward will be dealt with through DNR enforcement procedures. The ERI is meant to be an incentive program for property owners encroaching on public land to provide a streamlined and legal process to resolve their trespass issue.

Individuals with questions on the ERI should contact Lori Burford, the DNR's encroachment specialist, at 989-275-5151, ext. 2100 or via email at burfordl@michigan.gov.

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